

the Comments submitted by ATIS on March 27, 1998 on behalf of the NIIF concerning the Commission's questions related to the effectiveness of Computer III and Open Network Architecture (ONA) rules in the provision of unbundled services to information service providers (ISPs) and the NIIF performance in facilitating ISP ONA requests.

4. This Declaration follows up on previous affidavits submitted in April 1996 by me and three of my colleagues in CC Docket No. 95-20, which detailed the Bell Operating Companies' (BOCs') and other incumbent local exchange carriers' (ILECs') obstructionism of the IILC standards process, to the detriment of ONA development and competition.¹ As detailed in those affidavits, a great deal of unbundling-related industry fora and standards activities took place during the IILC era, but without any real agreements leading to actual unbundling.

5. This Declaration also follows up on my recent affidavit submitted in these proceedings in support of MCI's Comments filed on March 27, 1998. As explained in that affidavit, during the past year, ONA-related activities have nearly come to a standstill in the ATIS-sponsored NIIF. ONA activities were entrusted to ATIS-sponsored industry fora by the

¹ The 1996 affidavits, in turn, responded to BOC attempts to rebut my previous affidavit on this subject, filed in support of MCI's Comments in CC Docket No. 95-20 in April 1995.

FCC in Computer III. Progress in resolving network unbundling issues at the NIIF has not advanced since the NIIF took over the IILC unbundling issues in January 1997. NIIF could have produced meaningful industry agreements and requirements by now, but the BOCs have chosen to do more talking about the issues than producing implementable solutions. Hence, they have not carried out their ONA responsibilities.

6. In its March 27 filing, ATIS made it abundantly clear that the implementation of a consensus resolution of ONA issues at the NIIF is "voluntary and non-binding."² It also conceded that implementation of agreements reached at the NIIF is a business decision determined by participating individuals or companies.³ Regrettably, it is this type of laissez-faire attitude on the part of the BOCs that has rendered the NIIF's ONA process ineffective and has resulted in driving the ISP community away from participation in the NIIF. The ineffectiveness of the NIIF in securing binding solutions to technical standards issues also took away from the ISPs the only venue open for them to secure uniform implementation of new basic service elements.

7. ATIS' approach to the Systematic Uniformity Process⁴ has rendered that Process ineffective. That Process was intended to

² ATIS Comments at 9.

³ Id. at 9, 18.

⁴ Id. at 11.

provide a systematic framework to facilitate the uniform development and deployment of new ONA services and capabilities. Under ATIS' interpretation of the Uniformity Process, that Process does not relate to implementation of ISP service requests by the BOCs, even when the same BOCs agree with the NIIF issue resolution. ATIS admits that "achieving uniformity is part of the desired results,"⁵ but the reality is much different. That is because resolution of ONA issues, at both the IILC and NIIF, does not mean that the ISP can plan on ordering ONA services from the ILECs in a uniform manner, even when technical feasibility has been determined and agreed to by the NIIF and the ILEC members thereof.

8. In its filing, ATIS mentions that ISP services and the network services needed to provide those services are appropriately the subject of negotiation between the ISP and the BOCs or GTE as part of the Uniformity Process.⁶ The ONA services often requested by the ISPs, however, raise too many interconnectivity and other technical standards issues for such one-on-one resolution, because they may require network or protocol parameters that have not yet been identified or may need to be standardized. Even when an NIIF -- or, in the past, an IILC -- issue for an ONA service has been resolved and agreed to in these fora, the local BOC or GTE contacts in their respective

⁵ Id.

⁶ Id. at 12.

regions have not been informed of the services agreed to by their own companies in the industry fora. This lack of coordination also contributed to the diminished participation by the ISP community in both the IILC and the NIIF.

9. Contrary to ATIS' suggestion,⁷ it is hardly likely that the relative lack of ISP participation in NIIF activities is because they may have found it more expedient to request services from the BOCs and GTE on an individual basis and "never engage the NIAC processes," thus obviating the need for ISP participation in the industry fora. Most of the ISPs that participated in both the IILC and the NIIF processes have brought issues for the provision of ONA services that are industry-wide in scope. These same ISPs requested solutions that could be implemented in a uniform manner on a nationwide basis, because they do not have the resources to negotiate with each ILEC individually. ATIS' cynical speculation that ISPs are so well served that they no longer need the NIIF is simply an excuse to justify the paralysis in the development of ONA that BOC and ILEC intransigence has been allowed to create in the ATIS-sponsored fora.⁸

⁷ Id.

⁸ ATIS' Comments themselves illustrate perfectly the defects in the NIIF process. The ATIS Comments were reviewed by the NIIF, but, unfortunately, since the ISPs have been driven away by the NIIF's unresponsiveness on ONA issues, none participated in the review of the ATIS Comments. As a result, those Comments give a distorted view of the process that misrepresents the ISPs' actual experiences in the NIIF.

10. ATIS' Comments thus reinforce the conclusion in my recent affidavit that absent specific Commission directive, the BOCs and GTE will continue to preserve and expand their monopoly capabilities. These ILECs will maintain their defense of their monopolies regardless of which forum holds the meeting. The Commission should be more directly involved and order a date certain for implementation of fundamental unbundling.

I declare under penalties of perjury under the laws of the United States that the foregoing is true and correct.

Executed on April 23, 1998

A handwritten signature in cursive script, appearing to read "Peter P. Guggina", written over a horizontal line.

Peter P. Guggina

CERTIFICATE OF SERVICE

I, Sylvia Chukwuocha, do hereby certify that the foregoing Reply Comments were served this 23rd day of April, 1998, by first-class mail, postage prepaid, on the parties listed below:

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